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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,953	10/31/2003	David Rutter SR.	23-0223	5981
40158	7590	07/26/2005	EXAMINER	
LEONARD & PROEHL, PROF. L.L.C. 3500 SOUTH FIRST AVENUE CIRCLE SUITE 250 SIOUX FALLS, SD 57105			HAN, JASON	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/700,953	Applicant(s) RUTTER, DAVID	
	Examiner Jason M. Han	Art Unit 2875	

(AM)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 12-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-16 is/are allowed.
- 6) ☒ Claim(s) 1-7, 9, 10, 12 and 13 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to Claims 1-10 and 12-16 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-7, 9, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Authier (U.S. Patent 5416670).
3. With regards to Claim 1, Authier discloses a light system including:
 - A plurality of light emitting members [Figure 1: (10, 12); Figure 2: (20, 21); Figure 3: (22)] being adapted for being coupled to a vehicle such that each of said light emitting members emit light to visually indicate the location of the vehicle; and
 - Each of a plurality of holder members [Figure 2: (42, 44); Figure 3: (70)] selectively receiving one of the light emitting members, each of said holder members being adapted for being coupled to the vehicle such that each of said holder members is for selectively securing said light emitting members to the vehicle; and

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- Each of said holder members including a mounting portion [Figure 2: (28); Figure 3: (62)], whereby said mounting portion being adapted for selectively securing the associated one of said holder members to the vehicle, and being positioned between the associated one of the light emitting members and the vehicle.

Authier does not specifically teach the mounting portion being positioned substantially parallel to the associated one of said light emitting members when one of said light emitting members is received by the associated one of said holder members.

However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate said mounting portion to be positioned substantially parallel to the associated one of said light emitting members, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japiske*, 86 USPQ 70. In this case, rearranging the mounting portions to be parallel with the light emitting members would be more aesthetically pleasing, since the holding members would be less inclined to protrude out from the vehicle and would rather lie flat and parallel to the surface of said vehicle.

4. With regards to Claim 2, Authier discloses the claimed invention as cited above. In addition, Authier teaches each of the light emitting members having a perimeter wall [Figures 2-3: (23)] defining an interior space with a light emitting means therein [Column 3, Lines 14-17].

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5. With regards to Claim 3, Authier discloses the claimed invention as cited above.

In addition, Authier teaches the light emitting means including a chemical compound being a chemiluminescent [Column 3, Lines 12-33].

6. With regards to Claim 4, Authier discloses the claimed invention as cited above.

In addition, Authier teaches each of the holder members having a sleeve portion [Figure 2: (42, 44); Figure 3: (72)].

7. With regards to Claim 5, Authier discloses the claimed invention as cited above.

In addition, Authier teaches the sleeve portion of each of the holder members including a front wall [Figure 2: (48); Figure 3: (84)], a pair of sidewalls [Figure 2: (50); Figure 3: (70)], and a rear wall [Figure 2: (26); Figure 3: (74)], whereby the front wall, sidewalls, and rear wall define a sleeve space of the sleeve portion for receiving the light emitting member.

8. With regards to Claim 6, Authier discloses the claimed invention as cited above.

In addition, Authier teaches the holder members including a stern holder member [Figure 3: (62)], whereby the front wall of the sleeve portion of the stern holder member includes a stern aperture [Figure 3: (72)] extending through the front wall of the sleeve portion.

9. With regards to Claim 7, Authier discloses the claimed invention as cited above.

In addition, Authier teaches the holder members including a bow holder member [Figure 2: (28)], whereby the sleeve portion of the bow holder member includes a bow aperture [Figure 2: (42, 44)] such that the bow aperture extends through the front wall and a portion of each of the sidewalls of the sleeve portion of the bow holder members.

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10. With regards to Claim 9, Authier discloses the claimed invention as cited above. In addition, Authier teaches each of the holder members including a pair of end portions [Figure 2: (38, 40); Figure 3: (74, 84)] being coupled to the sleeve portion of the associated holder member such that one of the end portions is positioned opposite the other one of the end portions, and whereby each of the end portions includes a bore [Figure 2: (34, 36); Figure 3: (72)] such that the bore of each of the end portions is in communication with the sleeve portion of the associated holder member.

11. With regards to Claim 13, Authier discloses the claimed invention as cited above. In addition, Authier teaches the mounting portion of each of the holder members including a plurality of fastener apertures [Figure 2: (32); Figure 3: (68)], whereby the fastener apertures extend throughout the mounting portion of the associated one of the holding members.

12. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Authier (U.S. Patent 5416670) as applied to Claim 9 above, and further in view of Slutsky (U.S. Patent 2125403).

Authier discloses the claimed invention above, but does not specifically teach all holder members having a bore at each end including a first portion of greater diameter than a second portion, such that a lip is formed between the first and second portions.

Slutsky teaches a bore member [Figure 4: (22)] for insertion of a light member [Figure 4: (13)] including a first portion of greater diameter [Figure 3: (16)] than a second portion [Figure 3: (15)], such that a lip is formed between the first and second portions [Figures 3-4: (18)].

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It would have been obvious to one ordinarily skilled in the art at the time of invention to modify the light system of Authier to incorporate the bore of Slutsky in order to provide firm hold of the light emitting members. Such annular stops are commonly known within the art, whereby it also would have been an obvious matter of design choice to change the diameters of different portions of the bore, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

13. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Authier (U.S. Patent 5416670) as applied to Claim 1 above, and further in view of Moscarillo (U.S. Patent 4405973).

Authier discloses the claimed invention as cited above, but does not specifically teach the mounting portions of each of the holder members including an adhesive material.

Moscarillo teaches emergency light sources, wherein "an adhesive ring is provided for attaching the light source to the object to be illuminated [Abstract]."

It would have been obvious to one ordinarily skilled in the art at the time of invention to modify the light system of Authier to incorporate the adhesive material of Moscarillo, so as to provide a strong hold for the device onto an object [e.g. vehicle].

Allowable Subject Matter

14. Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: Applicant narrowly defines and further limits said holder members to include a pair of side holder members, wherein a sleeve portion of the side holder member includes a side aperture such that said side aperture extends through a front wall and a portion of one of the sidewalls of said sleeve portion of the associated one of said side holder members, and whereby each of said side holder members is adapted to couple to one of a pair of sides of a vehicle. The prior art fails to teach or suggest the combination of structural elements disclosed and claimed herein, and all subsequent dependent claims are allowed.

15. Claims 14-16 are allowed.

The following is an examiner's statement of reasons for allowance:

With regards to Independent Claim 14, the applicant has sufficiently claimed and narrowly defined an emergency lighting system for a vehicle, wherein a plurality of light emitting members are received with a plurality of holder members that are disposed on the stern, bow, and sides of said vehicle. The prior art fails to teach or suggest the combination of structural elements disclosed and claimed herein, specifically the structure of said holder members, and all subsequent dependent claims are allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Han whose telephone number is (571) 272-2207. The examiner can normally be reached on 8:00am-5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JMH (7/19/2005)


Stephen Husar
Primary Examiner